

Regular Session, 2009

HOUSE BILL NO. 225

BY REPRESENTATIVE LOPINTO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/SENTENCING: Amends provisions authorizing courts to sentence a defendant to home incarceration

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 894.2(A) and (G), relative to
3 sentencing in criminal cases; to provide with respect to home incarceration; to
4 authorize home incarceration either in lieu of imprisonment or in addition to a term
5 of imprisonment; to increase the maximum number of years a defendant may be
6 sentenced to home incarceration for a felony; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 894.2(A) and (G) are hereby amended
9 and reenacted to read as follows:

10 Art. 894.2. Home incarceration; requirements

11 A. Notwithstanding any other provision of law to the contrary, a defendant
12 may be sentenced to home incarceration ~~in lieu of imprisonment~~ under the following
13 conditions:

14 (1) The defendant is eligible for probation or was convicted of a
15 misdemeanor or a felony punishable with or without hard labor.

16 (2) In felony cases, either:

17 (a) The ~~the~~ Department of Public Safety and Corrections, through the
18 division of probation and parole, recommends home incarceration of the defendant
19 and specific conditions of that home incarceration; or

20 (b) The ~~the~~ district attorney recommends home incarceration, ~~or,~~ ;

1 ~~after contradictory hearing, the court determines that home incarceration would serve~~
2 ~~the best interests of justice.~~

3 (3) The court determines, after a contradictory hearing, that home
4 incarceration of the defendant is more suitable than imprisonment or supervised
5 probation without home incarceration and would serve the best interests of justice.

6 The court may sentence a defendant to home incarceration either in lieu of, or in
7 addition to, a term of imprisonment. When the court sentences a defendant, it may
8 order the defendant to serve any portion of the sentence under home incarceration.

9 * * *

10 G. The sentence of home incarceration shall be for a period of not more than
11 ~~two~~ four years in felony cases and for a period not to exceed six months in
12 misdemeanor cases.

13 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lopinto

HB No. 225

Abstract: Authorizes home incarceration in lieu of, or in addition to, a term of imprisonment and increases the maximum number of years a person may be sentenced to home incarceration for a felony.

Present law authorizes a defendant to be sentenced to home incarceration in lieu of imprisonment when the defendant is eligible for probation, or when the defendant is convicted in a misdemeanor case or in a felony case punishable with or without hard labor.

Present law requires a recommendation by either DPS&C or a recommendation by the district attorney. Requires a determination by the court that home incarceration would serve the best interests of justice.

Proposed law amends present law to clarify the requirement that either a recommendation by DPS&C or the district attorney is needed to sentence a person to home incarceration. Further provides that a court may sentence a defendant to home incarceration either in lieu of, or in addition to, a term of imprisonment.

Present law provides that a person convicted of a felony may be sentenced to home incarceration for a maximum of two years.

Proposed law amends present law to a maximum of four years.

(Amends C.Cr.P. Art. 894.2(A) and (G))